

ESTTA Tracking number: **ESTTA572004**

Filing date: **11/20/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	JAGUAR LAND ROVER LIMITED
Granted to Date of previous extension	11/20/2013
Address	ABBEY ROAD WHITLEY, COVENTRY, CV3 4LF UNITED KINGDOM
Attorney information	Dorne McKinnon-Rybicki Brooks Kushman, P.C. 1000 Town Center22nd Floor Southfield, MI 48075 UNITED STATES gdavis@brookskushman.com, drybicki@brookskushman.com, mfangileri@brookskushman.com

Applicant Information

Application No	85867803	Publication date	07/23/2013
Opposition Filing Date	11/20/2013	Opposition Period Ends	11/20/2013
Applicant	TOYS TEKK 1005 E. LAS TUNAS DRIVE #777 SAN GABRIEL, CA 91776 CANADA		

Goods/Services Affected by Opposition

Class 028. First Use: 2013/01/15 First Use In Commerce: 2013/02/01
All goods and services in the class are opposed, namely: Radio controlled toy vehicles; Remote control toys, namely, remote control car,remote control vehicle

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2860099	Application Date	01/30/2003
Registration Date	07/06/2004	Foreign Priority Date	NONE

Word Mark	LAND ROVER
Design Mark	
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 1980/01/01 First Use In Commerce: 1980/01/01 Toys, game and playthings, namely toy model vehicles, replica and scale model vehicles, hobby kits for the construction of toy model and scale model vehicles


U.S. Registration No.	2380434	Application Date	08/11/1998
Registration Date	08/29/2000	Foreign Priority Date	02/12/1998

Word Mark	LAND ROVER EXPERIENCE
Design Mark	LAND ROVER EXPERIENCE
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 [Electrical and electronic apparatus and instruments for use in, with and/or in relation to motor land vehicles, namely, aerials, ammeters, anodes, batteries for vehicles, battery chargers, signaling lights, luminous or mechanical signaling panels, cables, capacitors, cathodes, compasses, navigational instruments, condensers, conduits, electric coils, connectors, couplings, plugs, relays, sockets, electric and electronic bolts, locks, closures, fault detectors, fuses, microprocessors, mirrors, ohmmeters, regulators, relays, semiconductors, speed control apparatus and instruments, switches, telephone apparatus, telephone receivers and transmitters, thermostats; apparatus for use in protection against accident, namely, fire extinguishers, fire blankets and vehicle breakdown warning triangles, gloves and clothing all for use in protection against accident or injury; meters and gauges for use in, with and/or in relation to motor land vehicles, namely, apparatus and instruments for recording and measuring distance, fuel level, pressure, speed, temperature level and water indicators, micrometers; sound recording and sound reproducing apparatus and instruments, namely, amplifiers, loud speakers, microphones, radios, compact disc players and magazines inserted therein, mini disc players and magazines inserted therein; spectacles, sunglasses, eyeglasses for driving; pre-recorded computer software relating to motor land vehicles;] pre-recorded video, audio, and audio-visual tapes and discs in the field of motor land vehicles; [electronic amusement apparatus and electronic apparatus for games, all for use with television receivers or monitors; calculators]</p> <p>Class 012. First use: First Use: 0 First Use In Commerce: 0 [Land vehicles, namely, sport utility vehicles, station wagons, four wheel drive off-road vehicles, engines and structural parts therefor; alarms, anti-theft warning and electrically operated theft-prevention apparatus and instruments, and direction indicating apparatus and instruments, luminous or mechanical signals]</p> <p>Class 014. First use: First Use: 0 First Use In Commerce: 0 [Clocks, watches, cufflinks, tie pins, pins being badges of precious metal for wear, tie clips and jewellery]</p> <p>Class 016. First use: First Use: 0 First Use In Commerce: 0</p>


	<p>[Stationery; maps and travel guide books; books relating to motor land vehicles, printed instructional and teaching materials relating to motor land vehicles, writing and drawing instruments; writingpaper; almanacs; booklets and brochuresfeaturing motor land vehicles, calendars and catalogues featuring motor land vehicles; envelopes; handbooks, printed leaflets, magazines, manuals and pamphletsfeaturing motor land vehicles, land vehicles; posters; picture cards; photographs depicting motor land vehicles, stickers; decalcomanias; postcards; bookmarks and bookends; erasers; paperweights; diaries, notebooks, appointment and addressbooks, combinations thereof and covers therefor; business card holders; check book covers, passport covers and holders;folders, holders and covers for or containing notebooks, notepads, paper, pens,pencils and/or erasers]</p> <p>Class 018. First use: First Use: 0 First Use In Commerce: 0</p> <p>[trunks and travelling bags, carry, overnight, toiletry and sports bags, all made wholly or partially of leather; holdalls, suitcases, satchels, purses, wallets, umbrellas, parasols, walking sticks and key fobs, all made wholly or partially of leather]</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0</p> <p>clothing, namely, [overalls, coveralls,] head wear [and footwear;] articles of outer clothing, namely, [gloves,] wind-resistant jackets, [coats, scarves, sweaters, pants, skirts, shorts,] T-shirts, [sweatshirts,] and polo-shirts</p> <p>Class 028. First use: First Use: 0 First Use In Commerce: 0</p> <p>scale model and toy model vehicles [andkits for making scale model and toy model vehicles]</p> <p>Class 037. First use: First Use: 0 First Use In Commerce: 0</p> <p>[Repair, Maintenance, Reconditioning, and Servicing of Motor Vehicles and Partsand Fittings Therefor]</p> <p>Class 039. First use: First Use: 0 First Use In Commerce: 0</p> <p>[Leasing, Rental and Hire Services for Motor Vehicles, arranging and/or conducting holiday travel tours, safari travel tours and off-road driving tours; tour operating services, namely, arranging travel tours, making reservations in booking for transportation, providing off-roaddriving and post-safari excursions; travel agency, tourist agency, travel information and travel advice services; booking of seats and issuing of tickets for transportation; seat, berth, and ticket reservation services; breakdown recovery services]</p> <p>Class 041. First use: First Use: 0 First Use In Commerce: 0</p> <p>Off-road Driving Instruction services and educational services, namely, providing courses of instruction and education in four-wheel driving techniques, vehicle mechanics, map reading, driving safetyand environmental responsibility as concerns land vehicles; educational services, namely, providing an academy for training drivers</p>
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U.S. Registration No.	2100825	Application Date	01/17/1996
Registration Date	09/30/1997	Foreign Priority Date	NONE
Word Mark	RANGE ROVER		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 028. First use: First Use: 0 First Use In Commerce: 0</p> <p>toys, namely, toy automobiles, toy station wagons, and toy sport utility vehicles; games, namely, board games and computer game software; scale models, namely,miniature automobiles, miniature station wagons, and miniature sport</p>		

	utility vehicles sold complete or in kit form		
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U.S. Registration No.	2767628	Application Date	09/21/2001
Registration Date	09/23/2003	Foreign Priority Date	NONE
Word Mark	LAND ROVER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1949/03/17 First Use In Commerce: 1949/03/17 motor vehicles, namely, automobiles, sport-utility vehicles, [trucks and vans,] and structural parts and engines therefor; bicycles		

U.S. Registration No.	541722	Application Date	03/17/1949
Registration Date	05/01/1951	Foreign Priority Date	NONE
Word Mark	LAND ROVER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 0 First Use In Commerce: 0 MOTOR CARS, [COMMERCIAL MOTOR ROAD VEHICLES] -NAMELY, [TRUCKS, TRUCK TRAILER COMBINATIONS,] ESTATE WAGONS [, AND STRUCTURAL PARTS THEREOF]		

U.S. Registration No.	3485024	Application Date	08/09/2006
Registration Date	08/12/2008	Foreign Priority Date	NONE
Word Mark	LAND ROVER		
Design Mark			

Description of Mark	The mark consists of the words "LAND ROVER" inside an oval with zag Z elements after "LAND" and before "ROVER".
Goods/Services	Class 012. First use: First Use: 1948/00/00 First Use In Commerce: 1986/00/00 Sports utility vehicles

U.S. Registration No.	929034	Application Date	07/13/1970
Registration Date	02/15/1972	Foreign Priority Date	NONE
Word Mark	RANGE ROVER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 0 First Use In Commerce: 0 ROAD AND CROSS-COUNTRY MOTOR CAR OF THESTATION-WAGON TYPE AND STRUCTURAL PARTSTHEREOF		

Attachments	75536582#TMSN.gif(bytes) 76315284#TMSN.gif(bytes) 78948722#TMSN.jpeg(bytes) Notice of Opposition LAND7344OC CLOUD ROVER.pdf(240404 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/dorne mckinnon-rybicki/
Name	Dorne McKinnon-Rybicki
Date	11/20/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Trademark Application

Serial No.: **85867803**

Filed: **March 5, 2013**

Trademark: **CLOUD ROVER**

Atty. Docket No.: **LAND 7344 OC**

Published in the Official Gazette on July 23, 2013 on page TM 870

Jaguar Land Rover Limited,)	
)	
Opposer,)	
)	Serial No. 85867803
v.)	
)	Opposition No. _____
Toys Tekk Corporation,)	
)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, Jaguar Land Rover Limited, a United Kingdom private company limited by shares (PRC), having a principal place of business at Abbey Road, Whitley, Coventry CV3 4LF, United Kingdom (“Opposer”), believes that it would be damaged by the registration of the word mark “CLOUD ROVER” in the name of Toys Tekk Corporation (“Applicant”) shown in U.S. Trademark Application Serial No. 85867803, and hereby opposes the same.


A request for an extension of time to oppose was filed on August 21, 2013 and was granted, extending the time to file to November 20, 2013.

As grounds of opposition, Opposer alleges that:

1. Opposer and its predecessors have manufactured and sold vehicles, vehicle parts and accessories, and a wide variety of related automotive and collateral goods and services, including toy model vehicles, and replica and scale model vehicles, worldwide for over 60 years.

2. Opposer is the owner of the famous LAND ROVER and RANGE ROVER marks in the United States and throughout the world. Opposer owns, among others, the following valid and subsisting trademark registrations for LAND ROVER, LAND ROVER EXPERIENCE and RANGE ROVER (collectively the marks in the chart below are referred to as the ROVER Family of Marks):

MARK	REGISTRATION NUMBER & REGISTRATION DATE	GOODS/SERVICES
LAND ROVER	Reg. No.: 2860099 Issued: July 6, 2004	IC 028: Toys, game and playthings, namely toy model vehicles, replica and scale model vehicles, hobby kits for construction of toy model and scale model vehicles
LAND ROVER EXPERIENCE	Reg. No.: 2380434 Issued: August 29, 2000	IC 009: Pre-recorded video, audio, and audio-visual tapes and discs in the field of motor land vehicles IC025: Clothing, namely, head wear, articles of outer clothing, namely, wind-resistant jackets, T-shirts, and polo-shirts IC 028: Scale model and toy model vehicles IC 041: Off-road driving instruction services and educational services, namely, providing courses of instruction and education in four-wheel driving techniques, vehicle mechanics, map reading, driving safety and environmental responsibility

		as concerns land vehicles; educational services, namely, providing an academy for training drivers
RANGE ROVER	Reg. No.: 2100825 Issued: September 30, 1997	IC 028: Toys, namely, toy automobiles, toy station wagons, and toy sport utility vehicles; games, namely, board games and computer game software; scale models, namely, miniature automobiles, miniature station wagons, and miniature sport utility vehicles sold complete or in kit form
LAND ROVER	Reg. No.: 2767628 Issued: September 23, 2003	IC 012: Motor vehicles, namely automobiles, sport-utility vehicles, and structural parts and engines therefor; bicycles
LAND ROVER	Reg. No.: 541722 Issued: May 1, 1951	IC 012: Motor cars, namely, estate wagons
	Reg. No.: 3485024 Issued: August 12, 2008	IC 012: Sports utility vehicles
RANGE ROVER	Reg. No.: 929034 Issued: February 15, 1972	IC 012: Road and cross-country motor car of the station-wagon type and structural parts thereof

3. The foregoing registrations are valid and subsisting, uncanceled and unrevoked, and most are incontestable.

4. Opposer has used marks in its ROVER Family of Marks in connection with toy and replica motor vehicles since at least 1980.

5. Opposer has expended considerable time, effort and expense in advertising and promoting its ROVER Family of Marks and the goods and services associated with them throughout the United States, with the result that the purchasing public has come to know and recognize products of the Opposer by the marks within the ROVER Family of Marks. The Opposer has exceedingly valuable goodwill established in its ROVER Family of Marks.

6. Applicant filed a trademark application for the word mark CLOUD ROVER on March 5, 2013, claiming use of the mark since January 15, 2013. As published, the application covered “Radio controlled toy vehicles; Remote control toys, namely, remote control car, remote control vehicle” in Class 28 (“Applicant’s goods”).

7. Upon information and belief, Applicant’s application for CLOUD ROVER has been assigned Serial No. 85867803.

8. There is no issue as to priority. Opposer used, filed and registered the marks within its ROVER Family of Marks in connection with its goods long prior to Applicant’s March 15, 2013 filing date and the date of first use alleged by Applicant.

9. The “ROVER” component of Applicant’s mark is identical to the ROVER component in each mark of Opposer’s ROVER Family of Marks.

10. Applicant’s goods are identical and/or closely related to the goods and services advertised, promoted, offered, and/or sold by Opposer in connection with its ROVER Family of Marks.

11. Applicant’s CLOUD ROVER mark in Application No. 85867803 so resembles the marks in Opposer’s ROVER Family of Marks and the goods identified are so closely related to the goods of Opposer as to be likely, when used in connection with Applicant’s goods, to

cause confusion, or to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act, 15 USC 1052(d).

12. Applicant's CLOUD ROVER mark in Application No. 85867803 so resembles the marks in Opposer's ROVER Family of Marks and the goods identified are so closely related to the goods of Opposer as to be likely, when used in connection with Applicant's goods, to falsely suggest a connection with Opposer in violation of Section 2(a) of the Lanham Act, 15 USC 1052(a).

13. Applicant's CLOUD ROVER mark is a close approximation of Opposer's ROVER Family of Marks.

14. Because the purchasing public has come to recognize and associate the products of Opposer with the ROVER Family of Marks, Applicant's proposed CLOUD ROVER mark would be recognized as uniquely and unmistakably identifying or suggesting a connection to Opposer.

15. Opposer is not connected with the goods that are sold or will be sold, or other activities performed, by Applicant under the CLOUD ROVER mark.

16. The fame and reputation of Opposer is such that, when the CLOUD ROVER mark is used with Applicant's goods, a connection with Opposer will be presumed.

17. Through Opposer's extensive use and promotion of the marks within the ROVER Family of Marks, these marks have become distinctive and famous as defined under Section 43(c)(1) of the Lanham Act, as amended, 15 USC 1125(c)(1).

18. Opposer's ROVER Family of Marks became famous prior to the filing date of the application for the CLOUD ROVER mark on March 5, 2013 and the date of first use alleged by Applicant.

19. Applicant's use and/or registration of a "ROVER" component mark is likely to cause, and will cause, dilution of the distinctive value of Opposer's LAND ROVER and RANGE ROVER marks under Section 43(c) of the Lanham Act, 15 USC 1125(c).

20. For the foregoing reasons, Opposer will be damaged by the registration of the CLOUD ROVER mark filed by Applicant.

21. If the Applicant were granted the registration herein opposed, it would obtain at least a *prima facie* exclusive right to use of CLOUD ROVER in connection with the designated goods. Such registration would be a source of injury and damage to the Opposer's prior and established rights in its ROVER Family of Marks.

WHEREFORE, Opposer respectfully requests that registration of the CLOUD ROVER mark, Application Serial No. 85867803, be refused and this opposition be sustained.

The fee required under 37 C.F.R. § 2.6(a)(17) is being paid electronically concurrently with the filing of this Notice of Opposition. If the filing fee is found to be insufficient for any reason, please charge such deficiency to the deposit account.

Respectfully submitted,

By: /dorne j. mckinnon-rybicki/
Dorne J. McKinnon-Rybicki

Attorneys/Agents for Opposer

Date: November 20, 2013
(Filed electronically via USPTO ESTTA)

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Phone: 248-358-4400
Fax: 248-358-3351

CERTIFICATE OF SERVICE

I certify that I served:

NOTICE OF OPPOSITION

On November 20, 2013 by First Class Mail to:

Shun C. Chen
LAW OFFICES OF SHUN C. CHEN
4521 Campus Dr # 324
Irvine, CA 92612-2621

Courtesy copy via email to: shunchen@att.net

Correspondent for Applicant

and

Toys Tekk Corporation
1005 E. Las Tunas Drive #777
San Gabriel, California 91776

Applicant

/andrea white/
Andrea White